

Free Edition

Water, sewer district faces discrimination lawsuit

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By ALECIA WARREN/Staff writer |

COEUR d'ALENE - A local water and sewer district is fighting a discrimination lawsuit after hiking fees for assisted living facilities, and has filed a suit of its own contending the facilities must pay their fair share.

The litigation sparked quickly when Hayden Lake Recreational Water and Sewer District charged tens of thousands of dollars in new fees to two group homes in its district, Hayden View Cottage, LLC and By the Lake Assisted Living Homes, LLC.

A magistrate judge at the federal courthouse in Coeur d'Alene held a hearing on Thursday for two consolidated lawsuits over whether those charges are valid.

The district's fee raises for the facilities are legal and reasonable under sewer ordinances, said Lindsey Simon, district legal representative.

"If they (the district) didn't raise these sewer fees, they'd be subsidizing these facilities on the backs of all other users in the district," Simon said at the hearing.

But the owners of Hayden View and By the Lake, Becky and Joe Skala and Kathleen and Laurence Chmura, insist they could barely cover their past fees, said their attorney Chuck Dean.

"My clients have said, 'If this (fee increase) goes through, we will have to close our businesses and evict our patients,'" Dean said.

According to Simon, the small district only became aware a few years ago that the two facilities were operating in the area.

Both were being charged fees for single-family residences, she said.

But the district deemed the facilities as commercial, for-profit entities. Those rely on more district resources than private residences, the district determined, and should be charged more.

"Idaho code provides authority for a sewer district to adjust its rates," Simon pointed out, "to make sure every parcel is assessed and charged according to its use."

Dean said the district asked for roughly \$120,000 total from the facilities last year, to cover capitalization fees and underpaid operation and maintenance fees.

After the owners requested reasonable accommodation, Dean added, the district conducted a study and reduced the fees to about \$30,000 to match the facilities' actual use.

According to the study, Simon said, Hayden View Cottage was using "over two and a half times what they were being charged."

By the Lake was using "more than three times" what the facility was paying for, she added.

When the homes resisted payment, the district sued the owners last fall in state court.

Nonprofit Intermountain Fair Housing Council responded by filing a suit in federal court against the district on the facilities' behalf, accusing the district of discriminating against disabled clients.

The district's suit has since been moved to federal court, which is why defenses for both cases were present at Thursday's hearing.

Ken Nagy, representing IFHC, said the district is violating the Fair Housing Act by showing different treatment to disabled clients and group homes with eight or fewer residents.

Higher fees would impact the facilities' residents by causing the closure of their home, Nagy said.

"These homes for the disabled will disappear," he said, noting that Hayden View is licensed for eight occupants, and By the Lake for 16.

Dean said assisted living homes should be charged as single-family residences, since no ordinance specifies they don't fall in that category.

Single-family residence are defined as one family under a roof, Dean noted.

"One family includes a group home, otherwise I don't know where the district could stop," he said. "Is someone who takes in foster children not a family? Are a group of college students not a family?"

Simon said there are no financial reports to prove the homes would close because of the fee raise.

She denied the district has violated the Fair Housing Act, since the fee hike only directly affects the facilities, not the disabled clients.

Lower rates wouldn't benefit the occupants, she said, since they're covered by Medicare and wouldn't be passed along the savings.

"This is purely economic," Simon said. "(The owners) have simply requested lower rent."

The district's other attorney, Michael Schmidt, also argued that IFHC lacks standing to bring claims forward, because it lacks a personal stake in the issue.

It could take several weeks for Magistrate Judge Candy Dale to make a decision, Nagy said.

"It will go on for awhile yet," he said. "It's likely the parties won't attempt to settle the case before the judge issues the order."

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